

**STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF JULY 31-AUGUST 1, 2014
Prepared on June 18, 2014

ITEM NUMBER: 20

SUBJECT: Resolution Delegating Powers and Duties to the Executive Officer

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This Action: Adopt Resolution No. R3-2014-0043

DISCUSSION

Section 13223 of the Water Code allows the Water Board to delegate certain powers and duties to its Executive Officer. The Water Code states:

(a) Each regional board may delegate any of its powers and duties vested in it by this division to its executive officer excepting only the following: (1) the promulgation of any regulation; (2) the issuance, modification, or revocation of any water quality control plan, water quality objectives, or waste discharge requirement; (3) the issuance, modification, or revocation of any cease and desist order; (4) the holding of any hearing on water quality control plans; and (5) the application to the Attorney General for judicial enforcement but excluding cases of specific delegation in a cease and desist order and excluding the cases described in subdivision (c) of Section 13002 and Sections 13304 and 13340.

The Water Board has in the past delegated all duties and powers allowed by the Water Code to the Executive Officer, most recently in 1990 (see Attachment 3). Staff brings this resolution (Attachment 1) to the Water Board now for two reasons:

1. To formalize and document a restriction on the delegation made by the Water Board by motion at a meeting in February 2008, which allowed the Executive Officer to settle matters of administrative civil liability in amounts of up to \$300,000.
2. To authorize the Executive Officer to act as a hearing officer in mandatory minimum penalty (MMP) cases of administrative civil liability.

In a memo dated October 22, 2013, Office of Enforcement Director Cris Carrigan discusses ways regional boards could gain efficiency in dealing with contested MMP cases (Attachment 2). One recommendation is to streamline the administrative process by designating the Executive Officer to act as a hearing officer on behalf of the Water Board to hold evidentiary hearings and issue decisions (see page 5 of the memo). These adjudicatory hearings are time consuming for both staff and the Water Board. Allowing the Executive Officer to hold the hearings would provide the required due process to the discharger while conserving staff and Water Board resources. A staff hearing would also be easier to schedule and could happen more quickly than a Water Board hearing.

While the Water Board's current delegation resolution provides this authorization to the Water Board within its broad scope, the proposed resolution explicitly defines this delegation.

ATTACHMENTS

1. Proposed Resolution No. R3-2014-0043
2. Memo from Cris Carrigan to Thomas Howard, October 22, 2013
3. Previous Delegation, Resolution No. 90-06

RECOMMENDATION

Adopt Resolution No. R3-2014-0043